



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2204487
Applicant Name: Harold Ruppert for Pacific Topsoils Inc.
Address of Proposal: 1212 N. 107th Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to change the use from office/warehouse to recycling center/sales and service and rental of commercial equipment and materials. Project includes the demolition of portions of two existing structures, as well as the future construction of a two two-story structures. Project will retain one existing building located on site. Project includes surface parking for five vehicles.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05 Seattle Municipal Code.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS
 ☒ DNS with conditions*
 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

*The Early Notice DNS was published on November 21, 2002.

BACKGROUND DATA

Site Description

The proposal site is rectangular in shape and measures approximately 179 feet deep and 261 feet wide for a total square footage of 46,342 square feet. The subject site is located at the northeast corner of the intersection of Midvale Avenue and North 107th Street. The site bounded by Midvale Avenue to the west, North 107th Street to the south and Stone Ave North to the east. The site is currently developed with three warehouse type buildings with parking for vehicles on site. The site is zoned Commercial 2 for a 40-foot height limit (C2-40). The site is generally flat and is vegetated with two large Weeping Birch trees. Midvale Ave, Stone Ave and North 107th Street are paved two-lane paved streets without curb and sidewalk improvements.

Vicinity Description

The Commercial 2 zone extends to the west and north of the subject site. Across the street to the south and west of the site, the zoning changes to Lowrise 2 and 3, with Single Family residential zoning beyond. Development to the south and east includes a variety of single and multi-family residential uses, while the uses to the north and west are predominantly commercial.

Proposal Description

The proposed development includes a change of use from office/warehouse to recycling center/sales and service rental of commercial equipment and materials. Approximately 40,662 SF of the site will be designated for the sales and service of commercial equipment and construction material, while the balance of the site, approximately 5,680 SF, will be designated for the recycle collection station use. Pacific Topsoils is both a retail and wholesale outlet for landscaping and construction materials. The materials sold at the site include gravel, chips, sand, bark, tools and landscape supplies. The operation also collects clean soil, clean green, rock, concrete and wood residuals. The proposed project includes the following demolition and construction activities:

- Building No 1: Demolition of portion (3,704 SF) of existing (4,584 SF) structure and renovation of remaining 880 SF.
- Building No 2: Existing 4,080 SF structure to remain.
- Building No 3: Existing 320 SF structure to remain.
- Building No. 4: Construction of new 3-sided and covered 5,000 SF structure.
- Building No 5: Construction of new 3-sided and covered 3,750 SF structure.

The proposed uses are currently occurring on site without the benefit of a permit. This application was made in order to legalize the proposed uses on this site.

Project also includes surface parking for five vehicles. Access to the site will be relocated from the existing driveways on North 107th Street and Midvale Avenue to a consolidated driveway on Midvale Avenue North.

Public Comment

Approximately 21 comment letters were received during the comment period that ended on December 4, 2002 and throughout the review process. Additionally, a letter was submitted to DCLU with signatures from approximately 71 neighbors. The comments and concerns included the following issues:

- The activities currently conducted on the subject site are incompatible with the adjacent residential uses, contribute to a significant degradation of the quality of life for the residential neighbors and generally create many problems for an urban environment.
- Dust (airborne dirt) is created during all of the activities conducted on site including when the delivery trucks transfer their loads to the site, when the loaders move the load into bins for storage, whenever a wind/breeze occurs in the vicinity of the uncovered piles, when the loaders transfer load from the piles to customers' vehicles and when the uncovered vehicles circulate to and from the site. Evidence of this dust is present throughout the neighborhood including building exteriors, windowsills when windows are left open, on parked cars, in the air and on the streets.

- The study submitted to DCLU recognized the dust impacts were confined to within 200 meters (656 feet) of the site. Many residences are located within 200 meters of the site
- The impacts from the dust could be decreased by using sprinklers to wet down the material being stored on site, covering the loads being transported to and from the site, cleaning the streets (with water) on a regular basis, paving/landscaping the perimeter of the site, regular inspections by OSHA inspectors to ensure compliance with the air quality standards and covering the piles at night.
- The odor from the materials (yard waste, aged composted manure) being stored on site is offensive.
- Property owners a block away from the subject site also complained that while gardening, having to go indoors for relief from the smells generated by Pacific Topsoils.
- The odor study submitted to DCLU was deficient in that although it did not detect odors from the site, with the exception of bark, the study states that strong smells are infrequent and of short duration.
- This impact from this odor needs to be controlled and the types of materials accepted to this site should be limited and all composted material should be removed from the site daily.
- The business hours include weekdays, weekends and holidays, contributing significant noise to the neighborhood. Noises occur whenever transfer of loads are made by the equipment, tailgates are frequently dropped, the back-up beeper, and the equipment scraping the ground while picking up loads. These noises are described as quite loud and occur randomly. All of the activity occurs outdoors and no measures to reduce the noise are provided. The concrete block walls do not help to reduce the noise and often noises are heard outside of the standard work hours.
- Although measures have been taken since the public meeting to reduce the noise impacts, the noise study continues to find the noise impacts in excess of those allowed by City codes.
- The noise impacts could be greatly improved with reduced hours of operation in the evenings and weekends, as well as the construction of sound barriers and regular inspections by DCLU Noise Officers.
- Traffic has increased dramatically since Pacific Topsoils arrived with the use of dump trucks and other transfer vehicles, as well as the customers' vehicles. Oftentimes, the transfer vehicles are staged offsite while waiting for access. This off-site impact creates visibility problems for both pedestrians and vehicles. Furthermore, the paved street is in disrepair and does not appear able to handle the heavy loads coming to and from the site. The diesel exhaust from the idling trucks creates another traffic-related nuisance. It is observed that traffic accesses the site equally from the east and the west, creating additional traffic throughout the residential neighborhood. A traffic circle was recently installed at the intersection of 107th and Stone Avenue as a result of this cut-through traffic.
- The adverse traffic impacts could be relieved by the provision of pavement, sidewalks, curbs, drainage, grading and landscaping which would provide a safer environment and help to smooth the traffic flow for traffic associated with Pacific Topsoils. Additionally, parking or idling on North 107th Street should be prohibited. It was also suggested that the truck drivers using this facility have qualified driving certificates to ensure pedestrian safety in the area.
- The proposed structures are meant to be noise and dust barriers, but will they be insulated and with what? Will this form of insulation be safe if it becomes air borne and will it continue to function properly if it becomes moist?

- Residents have moved out of an adjacent apartment building due to health-related concerns associated with the dust (allergies and asthma) generated by Pacific Topsoils. Residents of another adjacent apartment building have complained on numerous occasions to the property owner of the disgusting smells emanating from Pacific Topsoils. The property owners are having trouble filling their vacancies and attribute this to the undesirability of such close proximity to Pacific Topsoils.
- Concerns that pedestrian safety is compromised by the lack of sidewalks along 107th, the fast moving traffic along 107th Street, as well as the parked cars blocking pedestrian movement.
- Concern that property values are negatively affected by the proximity to such an intensive use.
- The use should require more than six parking spaces and be able to accommodate the larger sized vehicles that frequent the site.
- Suggest regulation of the exterior lights that are used at the site to reduce glare impacts to the adjacent residential uses.
- Objections to the disorderly appearance of the facility, including garbage, weeds and signage.
- Stating that the request for the street improvement exceptions is not valid because structures are in fact being proposed and because pedestrian traffic directly relates to the provision of sidewalks. Furthermore, Stone Ave North is not a dead-end and the abutting properties are not necessarily at their highest and best use for the sites. A site located at the northwest corner of the intersection of North 107th Street and Midvale Avenue North was required to provide full improvements.
- Concerns that the drainage and runoff from this area requires further drainage capacity.
- Questioning the legality of the No Parking signs posted by Pacific Topsoils along the west and south sides of the subject site.
- Concern that as parking is eliminated along Aurora Avenue, parking will be pushed into the abutting neighborhoods, such as this one.
- Requesting that a barrier along the west side of the subject site be constructed to protect the residential uses to the southwest of the site from odor, dust and noise impacts;
- Concern that the proposed barriers along the east and south sides of the site will simply allow for the pile capacity to increase dramatically.

A public meeting to discuss the SEPA issues was held on April 8, 2003 in which approximately 16 people attended and the following comments were made:

- The excessive dust in the air makes it difficult to find tenants to live within a block of the Pacific Topsoils.
- The buildings, cars and windows are covered in dust. Leaving the windows open or spending time on balconies is problematic because of the dust problem. This problem is worsened during the summer months.
- The smell from the composted materials brought to the site is considered a nuisance by the neighbors especially if the wind is blowing in their direction. These smells were described as a sharp rotting smell, as well as gas fumes from idling trucks.
- The streets are messier than they were before Pacific Topsoils moved to this site.
- The tarps occasionally used to cover the piles are ineffective at preventing dust from leaving the site.

- The street cleaning performed by Pacific Topsoils is limited only to the immediate intersection and does not address the dirt tracked further away.
- The lack of sidewalks and dirt edges along the road give the impression that this is not a street.
- The traffic from the trucks visiting Pacific Topsoils is dangerous as there are no signals or stops.
- The noises heard from the subject site are unrelenting and constant. These noises are caused by the front loaders loading soils and emptying out the loaders, when the tailgates are dropped, the back up alarms, trucks driving on the road and shovels being scraped on the ground.
- Prefer that Pacific Topsoils operate under more regular business hours, so that when the residents return home at the end of the day and are home on the weekends, that the nuisances associated with this facility are less oppressive.
- There is graffiti and weeds around the perimeter of the site creating the negative impression of the area as one where the residents don't care about the aesthetics.
- Neighbors have noticed an increase in mold growth around their homes since the arrival of Pacific Topsoils into the neighborhood.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 25, 2002 and revised on June 10, 2003 along with supplemental information in the project file submitted by the applicant. The information in the checklist, supplemental information, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

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Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from demolition and construction activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction materials hauling, equipment and personnel; increased noise; and consumption of renewable and non-renewable resources. Several adopted codes and/or ordinances provide mitigation for some of the identified impacts:

- The proposal estimates approximately 30 cubic yards of demolished or excavated materials to be exported and disposed of off-site. Excess material to be disposed of must be deposited in an approved site.
- The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction.
- The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way.
- Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general.
- Finally, the Noise Ordinance regulates the time and level of construction noise that is permitted in the city.

Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, due to the fact that a large amount of demolition and building activity will be undertaken in association with the proposed project, additional analysis of air quality, noise, grading and traffic impacts is warranted and summarized below:

Environmental Element	Discussion of Impact
1. Air Quality	<ul style="list-style-type: none">• Increased dust and particulate matter due to demolition and construction activities and hauling of waste materials.
2. Noise	<ul style="list-style-type: none">• Increased noise levels as a result of construction activities.
3. Drainage/Earth	<ul style="list-style-type: none">• 30 cubic yards of demolished/excavated materials.
4. Traffic	<ul style="list-style-type: none">• An increase in vehicular traffic adjacent to the site due to construction vehicles.

Air Quality - Demolition/Construction

During demolition and construction, it is likely that dust particles will be released. The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. This will assure proper handling and disposal of asbestos, if it is encountered on the proposal site. However, there is no permit process to ensure that PSCAA will be notified of the proposed development.

1. A copy of applicable PSCAA permits shall be submitted to DCLU before issuance of the Demolition and Building Permits.

Construction Impacts - Noise

There will be demolition and excavation required to prepare the building site for the new buildings. Additionally, as development proceeds, noise associated with construction of the building could adversely affect the surrounding residential uses in the adjoining residentially zoned areas. Due to the proximity of residential uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential short term noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), additional mitigation is warranted.

2. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, all other construction activities shall be limited to non-holiday weekdays between 7:30 A.M and 6:00 P.M. Holidays shall include New Year's Day, Martin Luther King Jr.'s Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Day following Thanksgiving Day and Christmas Day. To reduce the noise impact of construction on nearby residences, work shall be permitted on Saturdays from 9:00 A.M. to 5:00 P.M. Extended weekday hours or Saturday work must be approved by the Department on a case by case basis prior to such work.
3. Grading, delivery and pouring of concrete and similar noisy activities shall be prohibited on Saturdays and Sundays. This condition may be modified by DCLU to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DCLU. Please contact both the DCLU Land Use Planner, Lisa Rutzick at 386-9049 (or Cheryl Waldman at 233-3861) and the DCLU Noise Compliance Officer, David George at 684-7843.

Periodic monitoring of work activity and noise levels will be conducted by DCLU Construction Inspections. As conditioned, noise impacts to nearby uses are considered adequately mitigated.

Drainage

Soil disturbing activities during demolition and site excavation for foundation purposes could result in erosion and transport of sediment. The Stormwater, Grading and Drainage Control Code provides for extensive review and conditioning of the project prior to issuance of building permits. Therefore, no further conditioning is warranted pursuant to SEPA policies.

Earth - Grading

The construction plans, including shoring of excavations as needed and erosion control techniques will be reviewed by DCLU. Any additional information required showing conformance with applicable ordinances and codes will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used; therefore, no additional conditioning is warranted pursuant to SEPA policies.

The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The current proposal may involve cuts greater than three feet in height and grading of approximately 30 cubic yards of material. The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction

methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Demolition/Construction: Traffic

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities. Construction activities are expected to affect the surrounding area. Impacts to traffic and roads are expected from truck trips during demolition and construction activities. The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allows the reviewing agency to mitigate impacts associated with transportation during construction. The demolition and construction activities will require the removal of material from the site and can be expected to generate truck trips to and from the site. In addition, delivery of concrete and other materials to the site will generate truck trips. As a result of these truck trips, an adverse impact to existing traffic will be introduced to the surrounding street system, which is unmitigated by existing codes and regulations.

It is expected that most of the demolished materials will be removed from the site prior to construction. During demolition a single-loaded truck will hold approximately 10 cubic yards of material. This would require approximately three single-loaded truckloads to remove the estimated 30 cubic yards of material.

Existing City code (SMC 11.62) requires truck activities to use arterial streets to the greatest extent possible. This immediate area is subject to traffic congestion during the p.m. peak hour, and large construction trucks would further exacerbate the flow of traffic. Pursuant to SMC 25.05.675(B) (Construction Impacts Policy) and SMC 25.05.675(R) (Traffic and Transportation), additional mitigation is warranted.

4. The applicant should develop and submit a Staging and Circulation plan including the elements specified below in order to reduce traffic/parking/pedestrian circulation impacts associated with demolition and construction. The plan will be subject to review and approval by DCLU through coordination with other appropriate departments/agencies with jurisdiction over the public right-of-way (e.g. SDOT, METRO, etc.). The plan shall include the following:
 - Information on where construction equipment and construction worker vehicles will enter and leave the project site;
 - Measures to minimize disruption of vehicular and bicycle traffic on adjacent streets;
 - Identification of haul routes and times at which all demolition and/or grading materials will be removed from the site by trucks; measures to minimize impact on traffic on adjacent streets and intersections.
5. The applicant must submit information on how sufficient on-site or other off-street parking will be provided to serve construction equipment and construction personnel commuting by motorized vehicle.

These conditions will assure that construction truck trips do not interfere with daily p.m. peak traffic in the vicinity. As conditioned, this impact is sufficiently mitigated in conjunction with enforcement of the provisions of existing City Code (SMC 11.62).

For the removal and disposal of the demolition materials, the Code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of “freeboard” (area from level of material to the top of the truck container) be provided in loaded uncovered trucks, which minimizes the amount of spilled material and dust from the truck bed en route to or from a site.

The Street Use Ordinance requires sweeping or watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. This ordinance provides adequate mitigation for transportation impacts; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts associated with approval of this proposal include air quality, noise and odor. Compliance with all other applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies.

Due to the type, size and location of the proposed project, additional analysis of the air, noise and odor impacts is warranted and summarized below:

Air Quality- Dust

A report addressing air quality was submitted to DCLU by MFG, Inc. and dated June 19, 2003. The analysis explains the regulatory framework for assessing the air quality impacts resulting from the proposed facility. Concerns with the human health and welfare associated with the air quality and/or the nuisance issues associated with suspended dust particles may enter into the analysis of adverse impacts from the air quality anticipated from a proposed use. Through conducting an emission inventory, the report concludes that the level of PM10 (particulate matter smaller than 10 micrometers) is concentrated within the immediate area of the facility and approximately 200 meters beyond the facility. This concentration, however, does not exceed the maximum concentration as determined by federal regulations. While acknowledging that the evaluation of the nuisance impacts are more difficult to quantify, the four site visits conducted by MFG staff person suggests that the dust impacts from the facility do not extend much beyond the subject site. The analysis concludes that “although some short-term impact may result [from dust emissions] there is no evidence of widespread dust impact to the neighboring community” (page 7, Pacific Topsoils North Seattle Yard Odor, Dust and Noise Assessments by MFG, Inc).

While asserting that the existing measures used by the facility are adequate for keeping the dust levels at the amounts found by the study, the report does propose several areas for improvement. The SEPA policy related to air quality SMC 25.05.675.A states that “It is the City’s policy to minimize or prevent adverse air quality impacts.” As stated under the Land Use policies, it is the City’s policy to ensure that proposed uses in development projects are reasonably compatible with surrounding uses. This policy objective may be achieved by controlling dust sources with paving, screening, reduction in the size or scope of the project or operation. The MFG report noted that the mitigation measures that would further decrease the suspended dust particulates include the construction of vertical wall enclosures along the south and east edges of the site, consolidation of the driveway, as well as regular watering and sweeping of the site particularly in

the summer months. Therefore, the following conditions shall be required and incorporated into the Site Operating Plan:

6. The plans shall be revised to show two new structures (Buildings #4-5) with vertical walls of at least 22 feet in height along the entirety of the southern and eastern property lines of the site. These vertical walls shall include a galvanized steel insulated roofing system which is cantilevered upwards for a distance of approximately 24 feet.
7. The plans shall be revised to show that the existing driveway located on 107th Street is closed. All access shall be consolidated into a single driveway located on Midvale Ave North.
8. The site and adjacent streets shall be cleaned with street sweeping equipment at least twice a week. Between May and September, this street cleaning shall include watering if necessary to reduce loose dust particulates from becoming airborne due to the sweeping. This cleaning shall extend along the site's street frontage along Midvale and 107th Street, as well as west along 107th Street to the alley. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Because the conclusions of this report are a stark contrast to the experience of the neighbors as documents by the numerous letters received by DCLU, additional discussion and mitigation of the dust impacts is warranted. The report notes that the nuisance associated with dust (and air quality) impacts are confined to within 200 meters of the subject site. The diagram to the left



illustrates the distance of 200 meters (656 feet) taken from the southwestern and southeastern corners of the subject site. This area of impact includes numerous residential uses. These uses are heavily concentrated to the east, southeast, south and southwest of the site and are therefore the most affected by the activities which are carried out by Pacific Topsoils. The report suggests that constructing structures along the east and south property lines and relocating the driveway to the western side of the site will minimize the dust levels. The report notes that the proposed structures, which are three

sided and covered, will reduce dust impacts by trapping the loose particulates, as well as reduce wind speeds on the surface of the facility. The existing piles reach up to an approximate height of ten feet. Neighbors are concerned that the piles may greatly increase within the taller structures thereby compromising the intent of the building these structures.

The consolidation of the driveways to the single entrance is likely to concentrate the loose dust particulates associated with vehicle circulation and load transfer to the area southwest of the site, close to the driveway and along the most frequently used truck route. Therefore, the measures proposed by the report do not appear to fully protect the residential development to the southwest of the site from the airborne dust generated by traffic accessing the site, as well as the

activities which occur on site. In order to better screen the residential development to the southwest of the site, the following condition is required:

9. The plans shall be revised to show Building No. 5 extending to the southwest corner and turning north for a distance of 25 feet. This extension of Building No. 5 shall include vertical walls of at least 22 feet in height. Building No. 1 shall be reconfigured along the western property line between the extended Building No. 5 and the driveway. These vertical walls shall include a galvanized steel insulated roofing system which is cantilevered upwards for a distance of approximately 24 feet.

The study explained that traffic along an unpaved roadway generates significant amounts of dust and that the paving of all roadways is recommended to prevent dust from becoming airborne. The shoulder of North 107th Street is unpaved between the roadway and the property line of the subject site. The existing site is mostly paved although as the site becomes re-configured and construction of the buildings is completed, portions of the site may need to be re-paved to ensure there are no gravel driveways on or accessing the site. Therefore the following conditions are required:

10. The shoulder of North 107th Street shall be paved between the roadway and the subject site for the length of the site's street frontage. This paving shall be completed pursuant to the standards described by the section labeled "Asphalt Walkway Near Existing Roadway" of the Seattle Street Improvement Manual, page 2-33 (Exhibit V).
11. The entire site and driveway shall be paved leaving no exposed gravel or dirt ground surface. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
12. Pacific Topsoils shall develop measures to encourage customers and employees to cover their loads. These measures shall be included on the informational flyer and website as well as incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Air Quality - Odor

The odors emanating from Pacific Topsoils as observed by neighbors differs dramatically from the odor impacts described in the study conducted by MFG. Neighbors have described the smells as similar to manure and rotting composting materials. The MFG study notes that the bark ground cover is the strongest smelling material on site. Given the discrepancy between these accounts, it is critical that the materials being accepted and sold by Pacific Topsoils are clearly labeled and treated. Odor impacts are identified under the SEPA background policies on air quality. SMC 25.05.675.A1.c states that Seattle's air quality is affected by particulates including odor impacts. Therefore, in order to protect air quality related to adverse odor impacts, the following conditions are required:

13. Pacific Topsoils shall post a sign at the site entrance and in their advertising (including their website) indicating exactly what materials are and are not accepted at this facility. The following statement shall be included: "No composting materials or manure is accepted at

this facility. Only Clean Green material is accepted at this facility.” The exact text for this sign shall be submitted to DCLU for review and approval. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

14. In order to better educate the customers, Pacific Topsoils shall submit to DCLU for review and approval the text for a sign to be posted at the entrance, as well as an informational flyer, explaining that if yard waste (clean green) has begun the composting process and strong odors are created, Pacific Topsoils may not accept the yard waste at this facility. This condition shall also be incorporated into the Site Operating Plan.
15. Pacific Topsoils shall use lime at least once a day on all arriving yard waste loads to reduce the odors associated with this material. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
16. All yard waste shall be removed from the site at the end of each business day. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Both the neighbors and MFG acknowledge the odors from the vehicular exhaust generated by the traffic using the site. Therefore the following condition shall be required.

17. Pacific Topsoils shall post a sign at the entrance stating the following: “Please turn your engine off while waiting and during all loading or unloading activities.” This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Noise

A noise study was submitted by MFG, Inc (referenced earlier in this document) addressing the proposed development and uses. According to this report, the noise levels generated from the existing facility often exceeds the standards allowed by the City Noise Ordinance. The most egregious noise level excesses primarily occur from the following activities: traffic over the gravel driveway, CAT idling, CAT cleaning rock piles, CAT loading gravel into truck, trucks dumping rocks onto storage pile and the CAT scraping asphalt. The lack of physical barriers screening these activities allows the noises generated on site to travel further and without much dilution. Due to the proximity of residential uses and given that the types and volume of noises are generated from activities inherent to the operation of this facility, several measures are necessary to help reduce the noise impacts.

The policy background for noise impacts found under SMC.25.05.675.L, states that noise may have adverse impacts on the use, value and enjoyment of property; sleep and repose and the physiological and psychological well-being of those who live and work in Seattle. The policy

background also acknowledges that the Noise Ordinance does not anticipate and mitigate all noise impacts. Pursuant to these noise policies, the City may minimize adverse noise impacts resulting from new uses as well as require mitigation measures such as requiring buffering to reduce noise impacts off-site. Using the authority provided by the SEPA Noise Policies and SMC 23.05.660, additional mitigation is warranted. The mitigation required for dust impacts (#6, #7 and #9) will also address the proposal's noise impacts.

While the aforementioned conditions are likely to reduce the severity of the noise exceedances from this site, the majority of the site remains unenclosed allowing the noisy activities to continue to be heard by the surrounding community. Furthermore, the noises associated with truck traffic visiting the site occurs during business hours. All of the services offered at this facility are available during business hours which currently correspond to the prescribed Noise Ordinance hours from 7am to 10 pm on weekdays and 9 am to 10 pm on weekends. Pursuant to the noise policies stated under SMC 23.05.675.L, the City may minimize adverse noise impacts resulting from new uses with mitigation measures such as limiting the time of operation. Given that this operation is within a short distance from a predominantly residential neighborhood, the noise impacts that occur during the business hours of this facility often conflict with the hours typically associated with residential uses.

Given the inherent conflict between these land uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts and pursuant to the SEPA noise policies, further conditioning is required. In fairness to these conflicting land uses, the weekday hours requiring sensitivity to both the commercial and residential uses shall be divided equally. DCLU recognizes both the importance of commercial viability and the right of residents to enjoy their homes for residential purposes. Given that the summer months are the busiest for the proposed use due to the longer days, warmer weather and increased landscaping-related activities, the weekday business hours have been extended by an additional hour during the summer months. Therefore, the following conditions are warranted pursuant to SMC 23.05.660.

18. Business hours for the proposed use at this location shall be limited as follows: from 7 a.m. to 7 p.m. on weekdays and from 9 a.m. to 6 p.m. on weekends during winter months (September 2 through April 30) and 7 a.m. to 8 p.m. on weekdays and 9 a.m. to 6 p.m. on weekends during the summer months (May 1 through September 1). These revised business hours shall be included in the Site Operating Plan, signage and informational flyer distributed to customers, as well as the website.
19. A sign shall be posted on the west, south and east facing facades which provides a working number for the Site Manager along with the business hours. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

The SEPA checklist estimates that approximately 150 vehicles trips are made to the subject facility each day. Approximately 16% of the vehicles going to and from Pacific Topsoils are trucks operated by Pacific Topsoils, while the remaining 84% belong to customers. The routes used by these vehicles often navigate through the residential streets to reach the subject site. This circulation pattern has raised concerns by the residential neighbors due to the frequent noise

associated with these vehicles. Additionally, the loads being transported are often left uncovered and are subject to wind and vehicle movements, further increasing the levels of loose dust particulates off site. Therefore, the following condition shall be required:

20. Pacific Topsoils shall develop preferred circulation and access routes to the facility. This information shall be included on the informational flyer distributed to customers. This plan shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Compliance with all other applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITIONS – SEPA

Non-Appealable Conditions

1. Only SDOT may issue signs that limit parking on public property. Therefore, prior to issuance of a building permit, Pacific Topsoils shall remove any posted No Parking signs referring to space in the right-of-way.
2. Acceptable landscaping, such as Boston ivy, shall be specified on the revised plans submitted to DCLU.

Prior to MUP Issuance

3. The applicant shall submit to DCLU for review and approval, a Site Operating Plan integrating the requirements described in conditions #6 and #9 through #18.
4. The plans shall be revised to show two new structures (Buildings #4-5) with vertical walls of at least 22 feet in height along the entirety of the southern and eastern property lines of the site. These vertical walls shall include a galvanized steel insulated roofing system which is cantilevered upwards for a distance of approximately 24 feet. (See related condition #6).

5. The plans shall be revised to show that the existing driveway located on 107th Street is closed. All access shall be consolidated into a single driveway located on Midvale Ave North.
6. The plans shall be revised to show Building No. 5 extending to the southwest corner and turning north for a distance of 25 feet. This extension of Building No. 5 shall include vertical walls of at least 22 feet in height. Building No. 1 shall be reconfigured along the western property line between the extended Building No. 5 and the driveway. These vertical walls shall include a galvanized steel insulated roofing system which is cantilevered upwards for a distance of approximately 24 feet.

Prior to Master Use Permit Issuance, Certificate of Occupancy & For the Life of the Project

7. In order to better educate the customers and employees, Pacific Topsoils shall submit to DCLU for review and approval, the text for a sign to be posted at the entrance, as well as a Rules of Conduct informational flyer. The website should also be revised to reflect these changes. The Rules of Conduct flyer shall be distributed and made available to customers emphasizing sensitivity to the residential neighborhood and measures expected of customers to ensure that the location of Pacific Topsoils is compatible with the surrounding neighborhood. These rules shall include the following information (see related conditions):
 - business hours
 - access routes and load coverage
 - engine idling
 - acceptable/unacceptable materials

This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

8. The shoulder of North 107th Street shall be paved between the roadway and the subject site for the length of the site's street frontage. This paving shall be completed pursuant to the standards described by the section labeled "Asphalt Walkway Near Existing Roadway" of the Seattle Street Improvement Manual, page 2-33 (Exhibit V).
9. The entire site and driveway shall be paved leaving no exposed gravel or dirt ground surface. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
10. The site and adjacent streets shall be cleaned with street sweeping equipment at least twice a week. Between May and September, this street cleaning shall include watering if necessary to reduce loose dust particulates from becoming airborne due to the sweeping. This cleaning shall extend along the site's street frontage along Midvale and 107th Street, as well as west along 107th Street to the alley. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

11. Pacific Topsoils shall develop measures to encourage customers and employees to cover their loads. These measures shall be included on the informational flyer and website as well as incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
12. Pacific Topsoils shall post a sign at the site entrance and in their advertising (including their website) indicating exactly what materials are and are not accepted at this facility. The following statement shall be included: "No composting materials or manure is accepted at this facility. Only Clean Green material is accepted at this facility." The exact text for this sign shall be submitted to DCLU for review and approval. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
13. In order to better educate the customers, Pacific Topsoils shall submit to DCLU for review and approval the text for a sign to be posted at the entrance, as well as an informational flyer, explaining that if yard waste (clean green) has begun the composting process and strong odors are created, Pacific Topsoils may not accept the yard waste at this facility. This condition shall also be incorporated into the Site Operating Plan.
14. Pacific Topsoils shall use lime at least once a day on all arriving yard waste loads to reduce the odors associated with this material. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
15. All yard waste shall be removed from the site at the end of each business day. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
16. Pacific Topsoils shall post a sign at the entrance stating the following: "Please turn your engine off while waiting and during all loading or unloading activities." This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
17. Pacific Topsoils shall develop preferred circulation and access routes to the facility. This information shall be included on the informational flyer distributed to customers. This plan shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.
18. Business hours for the proposed use at this location shall be limited as follows: from 7 a.m. to 7 p.m. on weekdays and from 9 a.m. to 6 p.m. on weekends during winter months (September 2 through April 30) and 7 a.m. to 8 p.m. on weekdays and 9 a.m. to 6 p.m. on weekends during the summer months (May 1 through September 1). These revised business

hours shall be included in the Site Operating Plan, signage and informational flyer distributed to customers, as well as the website.

19. A sign shall be posted on the west, south and east facing facades which provides a working number for the Site Manager along with the business hours. This condition shall also be incorporated into the Site Operating Plan to be reviewed and approved by DCLU prior to C of O. This condition shall be noted on the plans, verified prior to C of O and remain in effect for the life of the project.

Prior to Issuance of Building Permit

20. A copy of applicable PSCAA permits shall be submitted to DCLU before issuance of the Demolition and Building Permits.
21. The applicant should develop and submit a Staging and Circulation plan including the elements specified below in order to reduce traffic/parking/pedestrian circulation impacts associated with demolition and construction. The plan will be subject to review and approval by DCLU through coordination with other appropriate departments/agencies with jurisdiction over the public right-of-way (e.g. SDOT, METRO, etc.). The plan shall include the following:
 - Information on where construction equipment and construction worker vehicles will enter and leave the project site;
 - Measures to minimize disruption of vehicular and bicycle traffic on adjacent streets;
 - Identification of haul routes and times at which all demolition and/or grading materials will be removed from the site by trucks; measures to minimize impact on traffic on adjacent streets and intersections.
22. The applicant must submit information on how sufficient on-site or other off-street parking will be provided to serve construction equipment and construction personnel commuting by motorized vehicle.

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions shall be printed legibly on placards available from DCLU, shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

23. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, all other construction activities shall be limited to non-holiday weekdays between 7:30 A.M and 6:00 P.M. Holidays shall include New Year's Day, Martin Luther King Jr.'s Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Day following Thanksgiving Day and Christmas Day. To reduce the noise impact of construction on nearby residences, work shall be permitted on

Saturdays from 9:00 A.M. to 5:00 P.M. Extended weekday hours or Saturday work must be approved by the Department on a case by case basis prior to such work.

24. Grading, delivery and pouring of concrete and similar noisy activities shall be prohibited on Saturdays and Sundays. This condition may be modified by DCLU to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DCLU. Please contact both the DCLU Land Use Planner, Lisa Rutzick at 386-9049 (or Cheryl Waldman at 233-3861) and the DCLU Noise Compliance Officer, David George at 684-7843.

Signature: (signature on file) Date: October 20, 2003
Lisa Rutzick, Land Use Planner
Department of Planning and Development